

REMARKS

The present communication responds to the Office Action dated May 4, 2006. In that Action, the Examiner objected to claims 1-9 and 25-30 under 35 U.S.C. § 102(b). In view of the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1-9 and 25-30 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,917,328 to Schumacher. Applicants traverse the rejection for at least the following reasons.

Claim 1 is Not Anticipated by Schumacher

Claim 1 is directed to a miscarriage kit. The kit comprises, in part, “at least one under pad/bed liner.”

Paragraph [0050] of the present application explains:

In one embodiment, the package 10 contains underpad/bed-liners 14 as depicted in FIG. 2. The bed-liners 14 may vary in material, size, shape, color and absorbency. In one embodiment, the bed-liner 14 is a disposable underpad/bed-liner that is 26” x 36”.

Furthermore, paragraph [0051] explains the usefulness of the under pads/bed liners:

In one embodiment, the miscarriage care package 10 will include a quantity of fifteen underpads/bed-liners 14. In other embodiments, the package 10 will have a greater or lesser number of underpads/bed-liners 14. The underpads/bed-liners 14 may be used in any number of ways and in any manner in which the woman or caregiver feels helpful, but is intended to assist in keeping the woman’s surroundings sanitary by absorbing bodily fluids. For example, the underpad/bed-liners 14 are useful where a woman chooses to miscarry in a bed, chair, sofa or other physical surroundings. The bed-liner 14 helps to reduce worries about blood or fluid soaked bedding or fabrics and the discomfort of washing or cleaning these after miscarriage.

Schumacher, in contrast, does not disclose, teach, or suggest a miscarriage kit comprising at least one under pad/bed liner. Rather, Schumacher discloses a waste cleanup kit comprising a box and a plurality of contents. *See Schumacher, Abstract.* The kit contents include:

[A]n absorbent material, a disinfectant and a scoop for scooping up waste material and a scraper for scraping waste material from a surface. The contents further include at least one glove . . . an absorbent towel . . . a germicidal handwipe and a plastic bag.
Schumacher, Abstract.

Applicants respectfully assert that the Examiner has incorrectly pointed to the absorbent material as equating with under pads/bed liners. The absorbent material disclosed in Schumacher is a metered amount of absorbent granular material *Schumacher, col. 2, ll. 57-58.* In a preferred embodiment, the material is a commercially available mixture of clay, sawdust, and deodorant. *Schumacher, col. 2, ll. 58-60.* A granular material does not equate to an under pad/bed liner as the Examiner has suggested. As previously recited from the present application, "the underpad/bed-liners 14 are useful where a woman chooses to miscarry in a bed, chair, sofa or other physical surroundings. The bed-liner 14 helps to reduce worries about blood or fluid soaked bedding or fabrics and the discomfort of washing or cleaning these after miscarriage." A granular material would not be useful where a woman miscarries in a bed, chair, or sofa. A granular material would generally make a bed, chair, or sofa messier and more uncomfortable. Additionally, a granular material placed on a bed, chair, or sofa would not reduce the discomfort of washing or cleaning blood or fluid soaked bedding or fabrics after a miscarriage as they would be covered with the granular material and require a washing or cleaning.

Therefore, Schumacher fails to disclose, teach, or suggest the miscarriage kit of claim 1. Claims 25-30 depend from, and incorporate all the limitations of, claim 1. Accordingly, reconsideration and withdrawal of the rejection of claims 1 and 25-30 is respectfully requested.

Claim 2 is Not Anticipated by Schumacher

Claim 2 is directed to a kit for use with a miscarriage by a human. The kit comprises, in part, "a specimen pan, wherein the specimen pan is configured to fit inside the rim of a toilet and further includes an upper rim configured to allow the upper rim to rest atop the toilet rim."

A rejection under § 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. In other words, there must be no difference between the claimed invention and the prior art reference disclosure as viewed by a person of ordinary skill in the art. Therefore, Applicants respectfully traverse the rejection for at least the following reasons.

Paragraphs [0052] and [0053] of Applicants specification explain:

In one embodiment, the package 10 contains a specimen pan 16 ...
The specimen pan 16 is made from a durable material (e.g., plastic, rubber or metal) and is shaped to fit inside the rim of a standard toilet . . .

In one embodiment, the pan 16 has a triangular top configured to allow the pan 16 to fit atop the toilet rim.

Additionally, in Paragraph [0054], Applicants explain the purpose of the specimen pan:

The specimen pan 16 assists in collecting and/or calculating blood or other bodily fluid loss for recording purposes. Fluid loss must be monitored and recorded to determine whether safe limits have been exceeded. The specimen pan 16 can also be used to collect tissue and/or fetal remains, sparing the additional trauma of retrieving fetal remains from an unsanitary toilet.

Schumacher, in contrast, does not disclose, teach, or suggest a miscarriage kit comprising “a specimen pan, wherein the specimen pan is configured to fit inside the rim of a toilet and further includes an upper rim configured to allow the upper rim to rest atop the toilet rim.” As discussed above, Schumacher discloses a waste cleanup kit comprising a box and a plurality of kit contents. *See Schumacher, Abstract.* Nowhere does Schumacher disclose the plurality of kit contents include a specimen pan configured to fit inside the rim of a toilet and further include an upper rim configured to allow the upper rim to rest atop the toilet rim.

Rather, Schumacher discloses a scoop 80 and a scraper 90:

Finally, the contents of the kit 10 include a scoop 80 and a scraper 90. Scoop 80 is shown in a partially collapsed state in FIG. 3.
Schumacher, col. 3, ll. 33-35.

The scoop of Schumacher is designed to fit inside the interior of the content box and form a content chamber that is configured to hold the remaining kit contents:

So formed, scoop 80 forms a completed scoop with a generally rectangular configuration with bottom plate 81 dimensioned to be approximate to the surface area of opening 26 of box 10 . . .
Accordingly, scoop 80 may be inserted within box interior 20 . . . Box bottom plate 18, sidewalls 82, 83 and 85 and bottom wall 81 cooperate to define a content receiving chamber sized to receive contents 50-59, 64 and 70. *Schumacher, col. 3, ll. 46-49; col. 3, ll. 52-53; col. 3, ll. 58-61.*

That is, the scoop is specifically designed for the purpose of forming a content chamber with box 10, not configured to fit inside the rim of a toilet. In the present Action, the Examiner responded that scoop 80 “inherently fits inside the rim of a toilet and simultaneously rests atop the toilet rim since it is slightly smaller than the opening in the toilet.” It is unclear to Applicants how the Examiner “inherently” finds that scoop 80 fits inside the rim of a toilet. Nowhere in Schumacher are size specifications of scoop 80 recited. Similarly, nowhere in Schumacher is the scoop 80 disclosed as being used in conjunction with, or having any other relation to, a toilet or toilet rim. Schumacher discloses the “[s]coop 80 includes a base plate 81 and opposing side walls 82 and 83, backwall 84 with a foldover flap 85.” *Schumacher, col. 3, ll. 36-37.* Nonetheless, Schumacher nowhere discloses an upper rim on the scoop 80 that could “inherently,” or even reasonably, be configured to allow the upper rim to rest atop the toilet rim, as recited in Applicants’ claim 2.

Therefore, Schumacher fails to disclose, teach, or suggest the kit of claim 2. Claims 3-9 depend from, and incorporate all the limitations of, claim 2. Accordingly, reconsideration and withdrawal of the rejection of claims 2-9 is respectfully requested.

CONCLUSION

In light of the above, it is respectfully submitted that the present application is in condition for allowance. Reconsideration of the present application and a favorable response are respectfully requested.

No fee is deemed necessary. However, the Commissioner is hereby authorized to charge any fee deficiency associated with this paper to Deposit Account No. 04-1420.

Respectfully submitted,

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